IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR.

ORDER

1. S.B.Civil Writ Petition No 99/2006
   Bhagwan Das Mittal vs.State of Rajasthan & ors
2. S.B.Civil Writ Petition No 308/2006
   Jagdish Singh Jadon vs. State of Rajasthan & ors.
3. S.B.Civil Writ Petition No 310/2006
   Basant Kumar Bhatt vs. State of Rajasthan & ors.
4. S.B.Civil Writ Petition No 842/2006
   Pooran Mal vs. Principal Secretary(Revenue) & ors.
5. S.B.Civil Writ Petition No 1146/2006
   Dr. Sarju Devi vs.State of Rajasthan & ors
6. S.B.Civil Writ Petition No 1166/2006
   Firoj Ahmad Khan vs. State of Rajasthan & Ors
7. S.B.Civil Writ Petition No 1368/2006
   Banwari Lal vs.State of Rajasthan & ors
8. S.B.Civil Writ Petition No 1482/2006
   Munni Devi Modi vs. State of Rajasthan & ors.
9. S.B.Civil Writ Petition No 2498/2006
   D.L. Mandarawalia vs. Union of India & Ors
10. S.B.Civil Writ Petition No 2911/2006
    Ramesh Chand Chakelwal vs.State of Rajasthan & ors.
11. S.B.Civil Writ Petition No 3574/2006
    Madan Lal vs. RSRTC & Ors
12. S.B.Civil Writ Petition No 3590/2006
    Smt. Anita Shakywal vs. State of Rajasthan & ors.
13. S.B.Civil Writ Petition No 3678/2006
    State of Rajasthan & ors vs Smt. Seema Verma
14. S.B.Civil Writ Petition No 3892/2006
    Rajpal Singh and Anr. vs. Distt. Project coordinator & another.
15 S.B.Civil Writ Petition No 3930/2006
    Ram Swaroop Mewara vs.State of Rajasthan & ors
16. S.B.Civil Writ Petition No 3946/2006
    Ajay Kumar Vats vs. State of Rajasthan & Ors
17. S.B.Civil Writ Petition No 4490/2006
    Anand Bharti Goswami vs. State of Rajasthan & ors.
18. S.B.Civil Writ Petition No 4810/2006
    Uchhav Chand Jain vs.State of Rajasthan & ors
19. S.B.Civil Writ Petition No 4820/2006
    Devi Singh vs. Director General of Police & Ors
20. S.B.Civil Writ Petition No 5027/2006
    Puran Mal Khinchi vs. State of Rajasthan & Ors
21. S.B.Civil Writ Petition No 5080/2006

Prakash Chand Sharma vs Union of India & Ors
22. S.B.Civil Writ Petition No 5116/2006
Puran Mal Khinchi vs. State of Rajasthan & Ors
23. S.B.Civil Writ Petition No 5293/2006
Shiv Narain Verma vs. Harimohan Verma and ors.
24. S.B.Civil Writ Petition No 5450/2006
Pappu Ram Gupta vs.State of Rajasthan & ors
25. S.B.Civil Writ Petition No 5483/2006
Laxmi Narayan Chouhan vs. State of Rajasthan & ors.
26. S.B.Civil Writ Petition No 5506/2006
Om Prakash Sharma vs.State of Rajasthan & ors
27. S.B.Civil Writ Petition No 5532/2006
Paras Jain vs.land Settlement Commissioner
28. S.B.Civil Writ Petition No 5615/2006
Radha Kishan vs. State of Rajasthan & Others & ors.
29. S.B.Civil Writ Petition No 5633/2006
Ram Kishan Meena & Ors vs.State of Rajasthan & ors.
30. S.B.Civil Writ Petition No 5651/2006
Rajeev Yadav vs. State of Rajasthan & Others
31. S.B.Civil Writ Petition No 5658/2006
Bharwan Das vs. State of Rajasthan & Ors
32. S.B.Civil Writ Petition No 5662/2006
Shyam Kumar Gurjer vs.State of Rajasthan & ors
33. S.B.Civil Writ Petition No 5680/2006
Om Prakash vs. State of Rajasthan & Others
34. S.B.Civil Writ Petition No 5731/2006
Laxmi Kant Sharma vs. State of Rajasthan & Another
35. S.B.Civil Writ Petition No 5734/2006
Pokharmal vs.State of Rajasthan & Another
36. S.B.Civil Writ Petition No 5776/2006
Shiv Bhagwan Sharma vs.Chairman, Khadi Gramoudyog Mandal, Amarsar & ors.
37. S.B.Civil Writ Petition No 5805/2006
Dr. JP Naga vs. State of Rajasthan & Ors
38. S.B.Civil Writ Petition No 5813/2006
Dr. Jawaharlal vs.State of Rajasthan & ors
39. S.B.Civil Writ Petition No 5814/2006
Dr. Vikram Singh Vs State of Rajasthan & ors.
40. S.B.Civil Writ Petition No 5838/2006
Ashok Kumar Upadyay vs.State of Rajasthan & ors
41. S.B.Civil Writ Petition No 5898/2006
Ramcharan Lal Sharma vs.State of Rajasthan & ors.
42. S.B.Civil Writ Petition No 5901/2006
Harikesh Meena Versus State of Rajasthan and ors.
43. S.B.Civil Writ Petition No 5916/2006
Smt.Sadhana Jain vs. State of Rajasthan & Ors
44. S.B.Civil Writ Petition No 5920/2006
Ram Prasad Tapan vs. State of Rajasthan & Ors
45. S.B.Civil Writ Petition No 5947/2006
Ram Singh Yadav vs. State of Rajasthan & Ors
46. S.B.Civil Writ Petition No 5962/2006
Kumari Satosh Meena vs. State of Rajasthan & Others
47. S.B.Civil Writ Petition No 5983/2006

Shiv Ram Meena vs.State of Rajasthan & ors

48. S.B.Civil Writ Petition No 6011/2006
Ram Swaroop Meena vs. State of Rajasthan & Others
49. S.B.Civil Writ Petition No 6022/2006
Satish Sharma vs.State of Rajasthan & ors
50. S.B.Civil Writ Petition No 6045/2006
Murlidhar Sharma vs Rajasthan Pollution Control Board & ors.
51. S.B.Civil Writ Petition No 6052/2006
Santram Singh Vs vs.State of Rajasthan & ors.
52. S.B.Civil Writ Petition No 6074/2006
Smt. Bharti Mehta vs.State of Rajasthan & ors
53. S.B.Civil Writ Petition No 6090/2006
Dharam Veer Singh vs.State of Rajasthan & ors
54. S.B.Civil Writ Petition No 6097/2006
Mahesh Chand Tiwari vs.State of Rajasthan & ors
55. S.B.Civil Writ Petition No 6098/2006
Ashok Kumar Ojha vs.State of Rajasthan & ors
56. S.B.Civil Writ Petition No 6107/2006
Pradeep Singh vs. State of Rajasthan & Ors
57. S.B.Civil Writ Petition No 6118/2006
Nandlal Keer vs.State of Rajasthan & ors
58. S.B.Civil Writ Petition No 6124/2006
Smt. Rekha Chandel vs.State of Rajasthan & ors
59. S.B.Civil Writ Petition No 6131/2006
Hari Shankar vs.State of Rajasthan & ors
60. S.B.Civil Writ Petition No 6174/2006
Surat Singh Dahiya vs.State of Rajasthan & ors
61. S.B.Civil Writ Petition No 6189/2006
Nand Kishore vs.State of Rajasthan & ors
62. S.B.Civil Writ Petition No 6198/2006
Rajesh Kumar Saxena vs. State of Rajasthan & Another
63. S.B.Civil Writ Petition No 6202/2006
Shankar Lal Sharma vs.State of Rajasthan & ors
64. S.B.Civil Writ Petition No 6203/2006
Islam Ashraf vs. Direcotor , Secondary Education, Bikaner & ors
65. S.B.Civil Writ Petition No 6221/2006
Prithvi Singh Jangu vs.State of Rajasthan & ors
66. S.B.Civil Writ Petition No 6241/2006
Rajesh Kumar Sharma vs. Deputy Sectt. & ors
67. S.B.Civil Writ Petition No 6246/2006
Ram Sahay Yadav vs.Registrary BOR & ors
68. S.B.Civil Writ Petition No 6248/2006
Hitesh Sharma vs. State of Rajasthan & Ors
69. S.B.Civil Writ Petition No 6258/2006
Mohan Lal Khatana vs.State of Rajasthan & ors.
70. S.B.Civil Writ Petition No 6259/2006
Smt. Veerbala Gupta vs. Director, Elementary Ed. Bikaner & ors
71. S.B.Civil Writ Petition No 6285/2006
Dr. Suresh Chand Dhakar vs.State of Rajasthan & ors.
72. S.B.Civil Writ Petition No 6299/2006

Dr. Ramavtar Balia vs.State of Rajasthan & ors.
73. S.B.Civil Writ Petition No 6306/2006
Dr. Anil Kumar Saini vs.State of Rajasthan & ors.
74. S.B.Civil Writ Petition No 6374/2006
Nand Kishore vs Director, Technical Edu. & ors
75. S.B.Civil Writ Petition No 6379/2006
Dr. Shiv Kumar Sharma vs.State of Rajasthan & ors.
76. S.B.Civil Writ Petition No 6418/2006
Narendra Vijayvargiya vs.State of Rajasthan & ors.
77. S.B.Civil Writ Petition No 6442/2006
Ram Singh Chauhan vs.State of Rajasthan & ors
78. S.B.Civil Writ Petition No 6449/2006
Chhagan Lal Regar vs. State of Rajasthan & ors
79. S.B.Civil Writ Petition No 6452/2006
Ramesh Chand vs. State of Rajasthan & Another
80. S.B.Civil Writ Petition No 6487/2006
Keshar Dev Rathi vs. State of Rajasthan & ors.
81. S.B.Civil Writ Petition No 6500/2006
Dharam Pal Jyotishi vs. Director Sanskrit Ed. & ors.
82. S.B.Civil Writ Petition No 6505/2006
Mahesh Kumar Sharma vs. State of Rajasthan & ors.
83. S.B.Civil Writ Petition No 6510/2006
Mohd Sagir Khan vs. State of Rajasthan & Ors
84. S.B.Civil Writ Petition No 6512/2006
Kanhiya Lal vs. Addl. Director & ors
85. S.B.Civil Writ Petition No 6513/2006
Sanwarmal Verma vs. State of Rajasthan & Another
86. S.B.Civil Writ Petition No 6531/2006
Om Prakash Sharma vs.State of Rajasthan & ors
87. S.B.Civil Writ Petition No 6553/2006
Shuresh Chand Shukla vs.State of Rajasthan & ors.
88. S.B.Civil Writ Petition No 6554/2006
Ranjeet Kumar Bhojak vs. State of Rajasthan & ors.
89. S.B.Civil Writ Petition No 6556/2006
Kailash Chand Sham vs. State of Rajasthan & Others
90. S.B.Civil Writ Petition No 6587/2006
Mahesh Chand Sharma vs. State of Rajasthan & ors.
91. S.B.Civil Writ Petition No 6607/2006
Mohan Lal Kankheria vs.State of Rajasthan & ors
92. S.B.Civil Writ Petition No 6610/2006
Yashwant Kumar Sharma vs. State of Rajasthan & Ors
93. S.B.Civil Writ Petition No 6646/2006
Mahesh Chand Sharma vs. State of Rajasthan & Ors
94. S.B.Civil Writ Petition No 6652/2006
Om Prakash Khandelwal vs.State of Rajasthan & ors.
95. S.B.Civil Writ Petition No 6653/2006
Bundu Khan vs. State of Rajasthan & Others
96. S.B.Civil Writ Petition No 6654/2006
Peer Mohd vs. State of Rajasthan & Another
97. S.B.Civil Writ Petition No 6676/2006
Rajendra Kumar vs. Dy Secretary, Water Res.Deptt. & Anr.
98. S.B.Civil Writ Petition No 6683/2006

Ramswaroop Sain vs. Dy Secretary Water Res. Deptt. & Anr.

99. S.B.Civil Writ Petition No 6707/2006
Mahendra Kumar Sharma vs.State of Rajasthan & ors.
100. S.B.Civil Writ Petition No 6709/2006
Manoj Kumar Mehta vs. State of Rajasthan & Others
101. S.B.Civil Writ Petition No 6721/2006
Sukhveer Singh vs.State of Rajasthan & ors
102. S.B.Civil Writ Petition No 6731/2006
Kailash Chand Sharma vs.State of Rajasthan & ors.
103. S.B.Civil Writ Petition No 6740/2006
Om Prakash Mahavar vs. Director College Edu. & ors.
104. S.B.Civil Writ Petition No 6774/2006
Smt. Rekha Jain vs. State of Rajasthan & Others
105. S.B.Civil Writ Petition No 6794/2006
Banwari Lal Saini vs.State of Rajasthan & ors.
106. S.B.Civil Writ Petition No 6795/2006
Rambabu Sharma vs.State of Rajasthan & ors
107.S.B.Civil Writ Petition No 6934/2006
Shivpal vs. State of Rajasthan & Another
108. S.B.Civil Writ Petition No 6812/2006
Rajendra Kumar Gupta vs. State of Rajasthan & ors.
109. S.B.Civil Writ Petition No 6893/2006
Babu Lal vs. Director, Local Fund, Audit Department, Jaipur & Another
110. S.B.Civil Writ Petition No 6910/2006
Vinod Kumar Vyas vs. State of Rajasthan & Ors
111. S.B.Civil Writ Petition No 6952/2006
Khem Chand vs.State of Rajasthan & ors
112. S.B.Civil Writ Petition No 6974/2006
Dheeraj Nagar vs. State of Rajasthan & ors.
113. S.B.Civil Writ Petition No 6994/2006
Babu Lal Meena vs. State of Rajasthan & Ors
114. S.B.Civil Writ Petition No 7005/2006
Banna Lal Bhadru vs.State of Rajasthan & ors
115. S.B.Civil Writ Petition No 7034/2006
Daulat Ram vs.State of Rajasthan & ors
116. S.B.Civil Writ Petition No 7049/2006
Mohan Lal Nagalia vs.State of Rajasthan & ors
117. S.B.Civil Writ Petition No 7049/2006
Satynaryan Sharma vs.State of Rajasthan & ors
118. S.B.Civil Writ Petition No 7102/2006
Ramdayal Kumawat vs. State of Rajasthan & ors.
119. S.B.Civil Writ Petition No 7109/2006
Smt. Nidhi Mathur vs.State of Rajasthan & ors
120. S.B.Civil Writ Petition No 7112/2006
Smt. Mamta Gupta vs. State of Rajasthan & Others
121. S.B.Civil Writ Petition No 7117/2006
Om Prakash Sharma vs.State of Rajasthan & ors
122. S.B.Civil Writ Petition No 7136/2006
Prabhudayal vs. State of Rajasthan & Another
123. S.B.Civil Writ Petition No 7156/2006
Krishna Datta Pandey vs.State of Rajasthan & ors.

124. S.B.Civil Writ Petition No 7158/2006
Suresh Chand Devat vs. Board of Revenue & ors.
125. S.B.Civil Writ Petition No 7162/2006
Ramesh Chand vs. State of Rajasthan & Another
126. S.B.Civil Writ Petition No 7163/2006
Dr. Jagdish Saini vs. State of Rajasthan & Ors
127. S.B.Civil Writ Petition No 7214/2006
Kailash Chand Sharma vs.JVVNL & ors.
128. S.B.Civil Writ Petition No 7271/2006
Rajat Jain vs.J. Vidhut Vitran Nigam Ltd.
129. S.B.Civil Writ Petition No 7334/2006
Mal Chan vs. District Collector and ors
130. S.B.Civil Writ Petition No 7336/2006
Santosh Verma vs. State of Rajasthan & Others
131. S.B.Civil Writ Petition No 7374/2006
Suresh Kumar vs.State of Rajasthan & ors
132. S.B.Civil Writ Petition No 7375/2006
Pankaj Kumar Gupta vs.State of Rajasthan & ors
133. S.B.Civil Writ Petition No 7378/2006
Smt. Misri Devi vs. State of Rajasthan & Others
134. S.B.Civil Writ Petition No 7380/2006
Kishan Singh vs.Ajmer Vidhut Vitran Nigam Ltd.
135. S.B.Civil Writ Petition No 7391/2006
Chandan Ram Meena vs. State of Rajasthan & Ans.
136. S.B.Civil Writ Petition No 7404/2006
Himayat Ali vs. State of Rajasthan & Anr.
137. S.B.Civil Writ Petition No 7413/2006
Mool Chand Yadav vs.R.C.S.A.T.and another.
138. S.B.Civil Writ Petition No 7425/2006
Mohan Lal Vs State of Rajasthan & ors
139. S.B.Civil Writ Petition No 7442/2006
Miss Chandra Phrabha Saxena vs. State of Rajasthan & ors.
140. S.B.Civil Writ Petition No 7448/2006
Mahesh Kumar Misra vs.State of Rajasthan & ors.
141. S.B.Civil Writ Petition No 7461/2006
Ram Mohan Shukla vs. State of Rajasthan & Ans.
142. S.B.Civil Writ Petition No 7469/2006
Rajendra Kumar Gupta vs. State of Rajasthan & ors.
143. S.B.Civil Writ Petition No 7480/2006
Ram Prasad Sirova vs. State of Rajasthan & Ors
144. S.B.Civil Writ Petition No 7484/2006
Hansraj Berwa vs. State of Rajasthan & Others
145. S.B.Civil Writ Petition No 7487/2006
Satish Chand Sharma vs. JVVNL & Ors
146. S.B.Civil Writ Petition No 7507/2006
Smt. Sarita Misra vs. State of Rajasthan & Others
147. S.B.Civil Writ Petition No 7515/2006
Shanti Kumar Jain vs. State of Rajasthan & ors.
148. S.B.Civil Writ Petition No 7519/2006
Shyam Lal Sanvaria vs.State of Rajasthan & ors.
149. S.B.Civil Writ Petition No 7521/2006
JP Sharma vs. State of Rajasthan & Ors

150. S.B.Civil Writ Petition No 7524/2006
Sunil Kumar Meena vs. State of Rajasthan & Ors
151. S.B.Civil Writ Petition No 7584/2006
Hamid Shakur vs. State of Rajasthan & Ors
152. S.B.Civil Writ Petition No 7600/2006
Sanjay Mathur vs. State of Rajasthan & Another
153. S.B.Civil Writ Petition No 7655/2006
Hotam Singh vs. State of Rajasthan & Ors
154. S.B.Civil Writ Petition No 7661/2006
Nandram Saini vs. State of Rajasthan & Ors
155. S.B.Civil Writ Petition No 7682/2006
Govind Ram Gwala vs. State of Rajasthan & ors
156. S.B.Civil Writ Petition No 7698/2006
Palliwal Meena vs. State of Rajasthan & Another
157. S.B.Civil Writ Petition No 7700/2006
Prakash Veer Man vs.Shri Meer Singh and ors
158. S.B.Civil Writ Petition No 7702/2006
MK Jain vs. State of Rajasthan & Another
159. S.B.Civil Writ Petition No 7703/2006
Gopal Saran Bhargava vs. State of Rajasthan & Others
160. S.B.Civil Writ Petition No 7709/2006
Subhas Saini vs. Ajmer V.V.N.Ltd.& ors
161. S.B.Civil Writ Petition No 7784/2006
Maya Bajad vs. State of Rajasthan & Others
162. S.B.Civil Writ Petition No 7793/2006
Dr. Laxman Singh Ola vs.State of Rajasthan & ors.
163. S.B.Civil Writ Petition No 7797/2006
Ganga Sahay Gautam vs. R.C.S.A.T.and another
164. S.B.Civil Writ Petition No 7845/2006
Bhanwar Singh Chundawat vs. State of Rajasthan & Others
165. S.B.Civil Writ Petition No 7879/2006
Ram Swaroop Yadav vs. State of Rajasthan & Others
166. S.B.Civil Writ Petition No 7883/2006
Bhupendra Singh vs.State of Rajasthan & ors
167. S.B.Civil Writ Petition No 7919/2006
Shanti Lal Khatik vs R.C.S.A.T.& Ors
168. S.B.Civil Writ Petition No 7952/2006
Dr. S.R.Daga vs. State of Rajasthan & Another
169. S.B.Civil Writ Petition No 7958/2006
Sadavath Hasan vs. State of Rajasthan & Ors
170. S.B.Civil Writ Petition No 7978/2006
Smt. Punam Vyas vs. State of Rajasthan & Another
171. S.B.Civil Writ Petition No 7998/2006
Smt. Pratibha Meena vs. State of Rajasthan
172. S.B.Civil Writ Petition No 8001/2006
Dr.Sridhar Sharma vs. State of Rajasthan & Others
173. S.B.Civil Writ Petition No 8002/2006
Dr. Ram Gopal Sharma vs. State of Rajasthan & Others
174. S.B.Civil Writ Petition No 8003/2006
Dr. Kailash Chandra Sharma vs. State of Rajasthan & Others
175. S.B.Civil Writ Petition No 8044/2006

Nisar Ahmed vs. State of Rajasthan & Others
176. S.B.Civil Writ Petition No 8045/2006
Madhu Mehra vs. State of Rajasthan & Others
177. S.B.Civil Writ Petition No 8054/2006
Phool Singh vs. State of Rajasthan & Others
178. S.B.Civil Writ Petition No 8060/2006
Jagmal Singh Yadav vs. State of Rajasthan & Others
179. S.B.Civil Writ Petition No 8073/2006
Ganpat Ram Suthar vs. State of Rajasthan & Another
180. S.B.Civil Writ Petition No 8082/2006
Kishore Kumar Sharma vs. State of Rajasthan & Others
181. S.B.Civil Writ Petition No 8085/2006
Asheem Kulshereshtha vs. State of Rajasthan & Others
182. S.B.Civil Writ Petition No 8086/2006
Ashok Kumar Katewa vs. State of Rajasthan & Others
183. S.B.Civil Writ Petition No 8091/2006
Narendra Singh Shekhawat vs. State of Rajasthan & ors.
184. S.B.Civil Writ Petition No 8153/2006
Dinesh Panchal vs.State of Rajasthan & ors
185. S.B.Civil Writ Petition No 8173/2006
Lokesh Kumar Sharma vs. State of Rajasthan & ors.
186. S.B.Civil Writ Petition No 8176/2006
Smt. Rajni Sharma vs.State of Rajasthan & ors
187. S.B.Civil Writ Petition No 8210/2006
Ramesh Chand Meena vs. State of Rajasthan & Ors
188. S.B.Civil Writ Petition No 8217/2006
Ramji Lal vs. State of Rajasthan & Ors
189. S.B.Civil Writ Petition No 8219/2006
Arun Kumar vs. State of Rajasthan & Others
190. S.B.Civil Writ Petition No 8227/2006
Babu Lal Vaishnav vs.State of Rajasthan & ors
191. S.B.Civil Writ Petition No 8241/2006
Smt. Anupma Johari vs. State of Rajasthan & Others
192. S.B.Civil Writ Petition No 8253/2006
Dr.Versha Mehta vs. State of Rajasthan & ors
193. S.B.Civil Writ Petition No 8265/2006
Smt. Shiv Rani Mathur vs. State of Rajasthan & ors.
194. S.B.Civil Writ Petition No 8269/2006
Dr. Yogendra Singh vs.State of Rajasthan & ors
195. S.B.Civil Writ Petition No 8323/2006
Kishan Singh vs.State of Rajasthan & ors
196. S.B.Civil Writ Petition No 8325/2006
Ghanshyam Meema vs. State of Rajasthan & Others
197. S.B.Civil Writ Petition No 8413/2006
Narayan Singh vs. State of Rajasthan & Ors
198. S.B.Civil Writ Petition No 8419/2006
Rameshwar Dayal Sharma vs. State of Rajasthan & Another
199. S.B.Civil Writ Petition No 8457/2006
Dr.Asha Sharma vs. State of Rajasthan & Ors
200. S.B.Civil Writ Petition No 8462/2006
Prakash Chand Khati vs.State of Rajasthan & ors

201. S.B.Civil Writ Petition No 8483/2006
     Dr. Mohar Singh Yadav vs. State of Rajasthan & ors.
202. S.B.Civil Writ Petition No 8493/2006
     Ranveer Singh Shekhawat vs. State of Rajasthan & ors.
203. S.B.Civil Writ Petition No 8494/2006
     Sohan Lal Meghwal vs. State of Rajasthan & Others
204. S.B.Civil Writ Petition No 8498/2006
     Harpreet Singh vs. State of Rajasthan & Ors
205. S.B.Civil Writ Petition No 8499/2006
     Dr. Prakash Chandra Sharma vs.State of
206. S.B.Civil Writ Petition No 8512/2006
     Suresh Chand Shahu vs.State of Rajasthan & ors
207. S.B.Civil Writ Petition No 8514/2006
     Damodar Lal Soni vs. State of Rajasthan & Others
208. S.B.Civil Writ Petition No 8515/2006
     Hanuman Sen vs State of Rajasthan & ors

Writ Petitions under Articles 14,16 ,226 &227of the Constitution of India.

Date of order : 12th April,2007

PRESENT

HON'BLE MR.JUSTICE R.C.GANDHI

Mr.Himmat Singh, Mr. Lokesh Sharma, Mr.V.K.Mathur, Mr.Amir Aziz, Mr. Deen Dayal Khandelwal, Mr. Hari Kishan Saini, Ash ok Bansal, Suresh Sahni, Mr. Sandeep Saxena, Mr. K.C.Sharma , Mr.M.S.Sharma, Mrs Naina Saraf, Mr. M.B.Sharma, Mr.S.K.Ji ndal, Mr. RD Rastogi, Mr. BBL Sharma, Mr.CL Saini, Mr. Suda rshan Laddha, Mr.Anil Upman, Mr. Rakesh Kumar, Mr. Sanjay S harma, Mr. Zakir Hussain, Mr. Mahendra Shah, Mr.Anurag Shar ma, Mr. Navratan Singh, Mr. Sudhir Gupta, Mr. Ajay Gupta, M r. Anil Upman, Mr. Manish Bhandari, Mr.Anand Sharma, Mr. Ha numan Chaudhary, Mr. Akhil Simlote, Mr. Ashok Gaur, Mr.Gaur av Chaudahry, Mr. P.K.Sharma, Mr. Vijay Pathak, Mr.Rajesh M ootha, Mr. D.S.Poonia, Mr. Saurav Purohit, Miss Ashish Josh i, Mr. Arvind Soni,, Mr. AN Mathur, Mr. CL Saini, Mr. Veere ndra Lodha, Shree Swami, Mr. Sanjay Mehla, Mr. Jaganath Kh adpa, Mr. Jitendra Panday, Mr. Anupama Agrawal, Mr. VS Nain , Mr. Manu Bhargava, Mr. Praveen Balwada, Mr.R.K.Mathur, Mr .Rajvir Sharma, Ms Manju Joshi, Mr. LM Bhardwaj, Mr.DP Shar ma, Mr.Suresh Sahni,, Mr. Manoj Pareek, Mr. Zakir Hussain, Mr. Sunil Kumar Singodiya, Mr.Mukesh Agrawal, Mr. BR Rana, Mr. Ved Prakash, Mr. Rakesh Kumar Sharma, Mr. Bharat Saini, Mr. NK Singal, Mr. Ajay Gupta, Mr. Shailesh Prakash Sharma, Mr.Anand Sharma, Mr. Rajendra Soni, Mr.S.K. Singodia, Mr. A

slam Khan, Mr. HK Saini, Mr.Dayanand Sharma, Mr.Dinesh Yadav, Mr.Santosh Kaushik, Mr. Prahlad Singh, Mr. SC Gupta, Mr. Mansingh Gupta, Mr. RN Vijay, Mr.V.P.Sharma, Mr. Vinod Goyal, Mr. Ak Gupta, Mr. V.K.Mathur, Mr. Jitendra Mitruka, Mr. Anoop Sharma, Mr.Sukhveer Singh, Mr. Rajesh Kapoor, Mr.Sanjay Pareek, Mr.Satendra Singh, Mr. Suresh Kashyap, Mr.AR Tantia, Mr.Suresh Saini, Mr. Ajay Gupta, Mr. MM Bhardwaj, Mr. PS Sirohi, Mr. Ak Pareek, Mr. Narendra Misra, Mr. Sudhir Gupta, Mr. Amin Ali, Mr. H.R.Kumawat, for the petitioners.

Mr.Bharat Vyas Addl. Advocate General.
Mr.H.V.Nandwana, Dy.GA.
Mr.N.K. Bhatt Dy.GA.

Mr.Vinod Bansal
Dr.Y.K.Sharma
Mr. Ashok Bansal
Mr.Gajanand Yadav
Mr. Anand Sharma
Mr. Sandeep Saxena
Mr.M.C.Jain, for the respondents.

Petitioners, by means of all these petitions, have challenged the impugned transfer orders, passed by the respondents. These petitions having common facts and law are being decided by this common order.

The impugned transfer orders have been challenged on the grounds that the transfer has caused hardship to the petitioners as their children are minor and school going and there are no member in the family to look after them. The respondents impugned action of transferring the petitioners is mala fide and arbitrary. The petitioners have been transferred to a place which is at a long distance.

Policy of transfer/posting had not been adhered to by the respondents. Transfers have been made in mid-session of the school. In some of the petitions, it is averred that they have been transfered on complaint filed by the outsider against the petitioners, without holding an inquiry therein. The Election Commissioner has banned the transfers by an explicit order. The original order was challenged and the court granted interim stay order. The respondents have withdrawn the transfer orders to frustrate the cause of the petitioners and adjudication before the Court and passed another order posting the petitioner at another place where there is no post available for joining as the employee posted vice the petitioner has already joined. The transfers have been made even within one and a half month, one year or two years. No public interest or administrative exigency has been shown in the transfer orders. Some petitioners have pleaded in their petitions mala fide against the Minister and the Authorities of the State but they have not been arrayed as party-respondents. In some cases, transfers are shown to have been made at the request of the petitioners whereas no such request was made by them.

Despite post available at the place, from where the petitioners have been transferred or in the nearby district, the petitioners have been posted to other place or far away from district. State Government has not framed the Rules for transfer of the employees. Though, the ban was imposed by the respondents on transfers and postings, which was relaxed only from 15.6.2006 to 15.7.2006 vide order No.P.4 (4)GA/2/99 dated 15th June,2006 yet the transfer orders which have been issued during ban period. The petitioners serving in Panchayat Raj Department on the Establishment of District Cadre have been transfered outside the District Cadre in violation of Section 89 of Panchayat Raj Act,1994 (hereinafter to be referred as “Act of 1994) which indicates that the respondents have enacted this provision to create a service designated as the Rajasthan Panchayat Samiti and Zila Parishad Service and recruitment thereto shall be made district-wise and the transfer can not be made outside the district cadre.

It is also one of the grounds set out in the petitions that the Tribunal has maintained the subsequent order of transfer on the ground that once the transfer order is

cancelled, subsequent order passed by the respondents cannot be assailed. The mother of the petitioner is ailing and the transfer order was issued on the representation, which has also been cancelled. The petitioner in one of the petition has taken the ground that the petitioner is likely to be promoted and the transfer order has been issued to frustrate his promotion. In few petitions, the ground taken is that they have been transferred within one month twice or thrice prematurely to accommodate the respondents and their orders have been issued awaiting posting but they have not challenged the basic order. In two petitions, the ground is set out that they have been transferred from one Municipal Board to another Municipal Board without their consent but no challenge to the Section 310-A of the Rajasthan Municipality Act,1959 has been made in these petitions. The common grounds for their transfers to a larger distance has been taken in many petitions, the spouses' are already working at distant places. In some cases, petitioners have not been permitted to join despite transfer orders. One of the petitioners has stated that she has filed complaint against his superior officer and she has

been transferred as a measure of vengeance. In one of the petitions, the transfer order has been issued at the instance of the Minister. The respondents, in their reply before Service Appellate Tribunal, have admitted this fact. The order impugned before the Tribunal was cancelled and within 10 days another transfer order has been issued. It is the grievance projected by a few petitioners that they have been transfered despite the fact that they are to retire within one year. In some of the petitions, it is stated that they were appointed on compassionate ground and still they have been transferred outside the District in violation of the policy framed by the State which provides that such an employee shall be posted in the District. In some petitions, the petitioners have been transferred despite stay granted by the courts by canceling the impugned orders.

The petitioner was transferred at his request as his mother was ailing but again has been sent back without assigning any reasons. Another petitioner has been transferred from Sikar to Jalore while his father was suffering from Asthma. However, the petitioner has

admitted that he has been working at Sikar since last 13 years. Petitioner has been transferred five times in eight months and his age is 52 years. Another petitioner has been transferred four times in pre-mid session while marriage of the son is fixed in February,2007. One of the petitioner pleaded that he has been posted where there is no vacant post. Petitioner has been transfered where there were three posts available to accommodate the petitioner, the higher Officer has also requested the adjustment of the petitioner against one of the three post.

Petitioner has been transferred on 22.5.2006, 5.7.2006, 10.8.2006 and lastly on 22.8.2006 and have been kept awaiting posting order.

The petitioner Conductor was transferred on 17.11.2005, 19.12.2005 and 25.3.2006, it is shown in the transfer order that he has been transferred on his request on 25.3.2006., which is not borne out from the record of the respondents. However, lastly petitioner has been transferred on 25.6.2006.

Petitioner has not been transferred to nearby district according to the policy of the Government.

The transfer orders have also created analogous situation where two persons are working and the transfer has been made without availability of the post.

The transfer order has the effect of reversion of the petitioner to the post of Lower Division Clerk from Upper Division Clerk. Petitioner has been shown as LDC by mistake in the transfer order but he has been posted as UDC. This is just a mistake in using the word as the petitioner is a UDC and has been posted against the post of UDC.

Petitioners-Doctors are husband and wife and both have been transferred by the Collector which has been challenged on the ground that the Collector has no jurisdiction. It is admitted by the respondents that the Collector has no jurisdiction but subsequently another order has been issued whereby they have been transferred back. No cause survives, as the impugned order has been recalled. In one of the petitions, the Doctor has been transferred by Chief Medical and Health Officer being bereft of jurisdiction It is also admitted by the respondents that the Chief Medical & Health Officer has no such

jurisdiction. Thus, the petitioner is allowed to work and the impugned order is set aside.

A Class-IVth employee has been transferred outside the district in contravention of Circular of the Government which prescribes that Class-IVth employee ordinarily shall not be posted outside the district. It is also stated by one of the petitioners that though the respondent has been transferred against the post of the petitioner but no posting order is issued for transfer of the petitioner.

A Junior Accountant has been transferred at the instance of an MLA concerned and the letter of the MLA belonging to Ruling Party has been annexed with the writ petition.

In another petition, the petitioner has stated that he needs four months' time to stay at his place of posting as his daughter is preparing for Pre-Medical Test. Four months, by now, has elapsed as the petitioner was transferred in the month of June,2006. This petition is dismissed on this ground.

Petitioner was transferred on 18.1.2004, 6.9.2004, 15.7.2005 and 4.7.2006 to Tonk and on 15.7.2006 from

Tonk to Bikaner, it is a perfect case of frequent transfers.

Petitioner has stated that he has two years to retire. He is working as UDC and has been posted as LDC. Respondents rectified this mistake of showing the petitioner as LDC and has been posted as UDC. His grievance to that extent stands redressed. His further submission is that the post is available nearby but he has been shifted to a far of place. To this averment, respondents have stated that the petitioner has been staying against the said post since five years and was required to be transferred.

Petitioner has stated that his son and father met with an accident. His wife is a Nurse. The wife, mother of the child, is already posted nearby as stated by the respondents.

Petitioner Teacher Gr.II has been transferred from Chhabra,Baran by the District Education Officer. Respondents, in their reply, have submitted that the petitioner has not challenged the transfer order but challenged the relieving order. Unless the transfer is challenged, the writ petition is not maintainable and no

relief can be granted unless transfer order is quashed which has not been challenged.

Petitioner, an elected Vice Secretary of the Khadi Board, has been transferred by the Secretary, Khadi Board who has no jurisdiction as the post is only in Head Office whereas he has been posted as Manager. Respondents, in their reply, have stated that despite the transfer order, the petitioner shall be permitted to stay against the post of Vice Secretary till re-election, his grievance, therefore, stood redressed.

Petitioner, a Junior Accountant, has been posted in the Social Welfare Department by the Director, Treasury and Accounts. He has been transferred by the Director, Social Welfare Department to Mentally Retarded Hospital. It is stated at the Bar by learned counsel for the respondents that the impugned order has been withdrawn. The writ petition, therefore, has rendered infructuous.

Petitioner, a Lady Para-Teacher was embarrassed by the Headmaster. She was transferred on 7.5.2005 keeping in view the administrative control of the said Headmaster. She again has been transferred vide impugned order and

put under the control of the same Headmaster.

The petitioner has submitted that two years before i.e 15.7.2004 , he was transferred. He challenged that order before the Tribunal which was stayed. The respondents passed second order on the same day and relieved the petitioner. The respondents have admitted this mistake at the bar.

Petitioner, a Class-IVth employee,has been appointed in Social Welfare Department on compassionate ground on 20th April,2002 and posted at Sikar on 9.7.2004. He was transferred to Jaipur on 26.10.2005 and from Jaipur to some other office at Jaipur. Now vide impugned order,he has been transferred on 14.7.2006 from Jaipur to Jaisalmer which is about 800 km away from Jaipur. His submission is that once a person is appointed on compassionate ground, he cannot be posted outside the district.

Respondents have filed their reply in some of the petitions and submitted at the bar that the reply filed therein may be treated and read as reply to the other petitions as well wherein the reply has not been filed. It has been permitted by the court. The respondents, in their

reply, have submitted that the impugned transfers have been made in public interest and for administrative exigencies. There is no malice for effecting transfers on the part of the respondents. The petitioners' transfers are an exigency of service and an employee is bound to serve wherever he is posted by the employer. The hardship pleaded is no ground for not transferring an employee, which is an ingredient part of the service. An employee, while accepting service, is aware that he/she could be transferred/posted at any place in the State. The policy of posting the employees outside the District at a distance place, is not statutorily enforceable in the court of law. The respondents have a right to transfer an employee on a complaint or mis-behaviour. No transfer has been made in violation of any order passed by the Election Commissioner banning impugned transfers. The original transfer orders have been cancelled in public interest, as the public office was vacant because of the stay granted by the Court and has been made functional in public interest. If any employee has been transferred and not permitted to join, he shall be provided posting. The allegations of malafide

and arbitrariness can be taken into consideration by the Authorities but no such representation has been received. Persons against whom the allegations have been leveled have not been arrayed as party-respondents, therefore, such allegations cannot be inquired into and proved at his back. Employees who have been transfered on their requests, if it is found factually incorrect, such cases can be looked into by the respondents. Respondents have exercised the power of transfers of the employees working in Panchayat Raj Department in terms of sub section 8A of Section 89 of the Act of 1994.

Heard learned counsel for the parties and perused the record.

Learned counsel for the petitioners have submitted that the respondents have not framed the Rules for transfer of the employee. In rebuttal, learned counsel for the respondents have submitted that sub Section 8A of Section 89 of the Panchayati Raj Act, 1994 (hereinafter called as the “Act of 1994) read with Rule 20 of Rajasthan Service Rules (Volume I) contains provision of transfer of a government servant. For convenience, they are extracted

below and read as under:

> (8A)Notwithstanding anything contained in sub-section(8), the State Government may transfer any member of the service from one Panchayat Samiti to another Panchayat Samiti whether within the same district or outside it, from one Zila Parishad to another Zila Parishad, or from a Panchayat Samiti to Zila Parishad or from a Zila Parishad to a Panchayat Samiti, and may also stay the operation of, or cancel, any order of transfer made under sub section (8) or the rules made thereunder:"

> "Rule 20. **Transfer of Government servant**: (a) Government may transfer a Government servant from one post to another; provided that except:
> (i) on account or inefficiently or mis-behaviour.
> or
> (ii) on his written request,
>
> a Government servant shall not be transferred substantively to, or, except in a case covered by Rule 50 appointed to officiate in, a post carrying less pay than the pay of the permanent post on which he holds lien or could hod a lien had his lien not been suspended under Rule 17.

The plea of the learned counsel for the petitioners that the respondents have not framed the Rules for transfer of

employees has no substance and is rejected in view of the aforesaid provisions of law.

Order dated 15.6.2006 has been issued by the respondents whereby ban was relaxed for a period of one month i.e. from 15.6.2006 to 15.7.2006. The transfers have been effected during this period and also before and after this period. It is submitted by learned counsel for the petitioners relying upon the order dated 15.6.2006 that it was the duty of the Authorities of the State who issued the impugned orders to behave like public servant and adhere to the orders of the Government.

Imposing ban on transfers and postings by the respondent / State is a matter of administrative convenience. The order of imposing ban is in the form of instructions to the Authorities of the State to be complied with. It has no statutory force. The respondents have exercised their power of transferring the employees in terms of the Rules. The administrative instructions cannot be a substitute of statutory law or the rule, therefore, transfers effected without adhering to the instructions of the Government cannot be said to be a violation of the

service condition. The respondents / authorities of the State and the Government have the power vested in them under the Rules to exercise it in public interest and keeping in view the exigencies of service. Dealing with such proposition, that the transfers have been made in violation of the executive instructions or orders as the case herein pleaded by the petitioners herein, the Apex Court in case title **Mrs.Shilpi Bose and others vs State of Bihar and others** reported in **AIR 1991 SC 532** held as under:

> "In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. **A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transfered from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department.** If the courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities there will be complete chaos in the Administration which would not be conducive to public interest.

> The High Court over looked these aspects in interfering with the transfer orders."

So far as the plea of the learned counsel for the petitioners that they have been put to great harassment by transferring them to far off places and that too in mid term session prematurely and **within two years of superannuation** though the posts were available at the places from where they have been transferred and the respondents could have accommodated the petitioners against vacant posts, is also not sustainable as the transfer is an exigency of service and the petitioners cannot dictate the employer for his posting at a particular place or at a nearer distance or the petitioners have difficulties because of their children are minor and school going. It is the prerogative of the employer to post his employees wherever their services are required in public interest In similar circumstances the Apex Court while discussing the plea of the **State of Panjab and others vs Joginder Singh Dhatt** reported in **AIR 1993 SC 2486** wherein the High Court allowed the writ petition on the ground that it was mid term transfer and within two years of the

superannuation, was reversed by the Supreme Court allowing the Civil Appeal preferred by the State of Punjab, observing as under:

> "This Court has time and again expressed its disapproval of the courts below interfering with the order of transfer of public servant from one place to another. It is entirely for the employer to decide when , where and at what point of time a public servant is transferred from his present posting. Ordinarily the courts have no jurisdiction to interfere with the order of transfer of the respondent from Hoshiarpur to Sangrur. The High Court was not justified in extending its jurisdiction under Article 226 of the Constitution of India in a matter where, on the face of it, no injustice was caused"

The malafide as pleaded by the petitioners also cannot be taken into consideration as the concerned Minister/Authority of the State/ MLA has not been arrayed as party respondents. No observation and finding can be recorded in their absence. Allegations of malice has been leveled without supporting material and the court is unable to record any finding bereft of supporting evidence. Dealing with such situation, the Apex Court in case title **State of U.P. and others vs. Gobardhanlal & D.B.Singh**

vs. D.K. Shukla and Others reported in **(2004) 11 SCC 402,** while maintaining the transfer order observed as under:

> "It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

> A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and **even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on** consideration borne out of or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer."

The plea of the learned counsel for the petitioners that the respondents have not adhered to their policy for posting of husband and wife at one station. This policy is not having statutory force and cannot be enforced in the Court of law as observed by the Supreme Court in case title **Bank of India vs Jagjit Singh Mehta** reported in **AIR 1992 SC 519** held as under:

> "No doubt, the guidelines require the two spouses to be posted at one place as far as practicable, but that does not enable any spouse to claim such a posting as of right if the departmental authorities do not consider it feasible. The only thing required

> is that the departmental authorities should consider this aspect along with the exigencies of administration and enable the two spouses to live together at one station if it is possible without any detriment to the administrative needs and the claim of other employees."

The plea of learned counsel for the petitioners that the respondents have created a district service under Section 89 of the Act of 1994 and they cannot be transferred to other services. In some of the petitions, the petitioners are the employees of the District Cadre and their transfer to another District Cadre service is not sustainable. Section 89 and Sub Section 8(ii) of the Act of 1994 has been pressed into service to make out that the transfers have to be made by the competent authority after consultation of the Pradhans or the Zila Pramukhs as the case may be, of the Panchayat Samiti/Zila Parishad and from and to where transfer is proposed to be made. For convenience, Section 89 of the Act of 1994 is extracted below and reads as under:

> (89) **Constitution of the Rajasthan Panchayat Samiti and Zila Parishad Service-**(1) There shall be constituted for the State a **service designated as the**

Rajasthan Panchayat Samiti and Zila Parishad Service and hereinafter in this section referred to as **the service and recruitment thereto shall be made district wise.**

(2) The service may be divided into different categories, each category being divided into different grades, and shall consist of
(i) village level workers;
(ii) Gramsevikas;
(iii)[Primary and Upper Primary School] teachers; and
(iv)ministerial establishment (except Accountants and Junior Accounts).

(3) The State Government may encadere in the service any other category or grade of officers and employees of Panchayat Samitis and Zila Parishads and not included in Class IV Services.

(4) The State Government may prescribe the duties, functions and powers of each grade and each category of officers and employees encadred in the service.

(5) All appointments to posts in the service shall be made-
(a) by direct recruitment; or
(b) by promotion; or
© by transfer.

(6) Appointment by direct recruitment shall be made by a Panchayat Samiti or Zila Parishad , as the case may, in accordance with the rules made in this behalf by the State Government, from out of the persons selected for the posts in a grade or category in the district by the District Establishment Committee referred to in Sub Section (1) of section 90.

(7) The Appointing Authority may, so long as selection is not made by the District Establishment Committee or selected persons are not available for appointment, make appointments in the prescribed manner on a temporary basis for a period not exceeding six months and the said period may be extended only after consultation with the
District Establishment Committee.

(8) **Appointment by**-
(i) Promotion shall be made by the Panchyat Samiti or the Zila Prishad, as the case may, in the prescribed manner from amongst the persons whose names have been entered in the list prepared by the District Establishment Committee; and
(ii) transfer shall be made after consultation with the Pradhans or the Pramukhs, as the case may be, of the Panchayat Samitis or the Zila Parishads from and to which such transfer is proposed to be made.

Section 89 has been enacted to crate and regulate a service. Sub Section 8 deals with appointments against the posts of the service. Sub Section 5 deals with mode of appointment. Sub Section 6 deals with direct appointment and Sub Section 7 is procedural whereas Sub Section 8 (i) deals with appointment by promotion and Sub Section 8(ii) appointment by transfer in consultation with Pradhans or the Pramukhs of one Panchayat Samiti or Zila Parishad to

another as the case may be. It has nothing to do with the transfer of an employee. The provision for transfer of the employees is contained in Sub Section 8A of the Act of 1994 which reads as under:

> (8)(A)Notwithstanding anything contained in sub-section(8), the State Government may transfer any member of the service from one Panchayat Samiti to another Panchayat Samiti whether within the same district or outside it, from one Zila Parishad to another Zila Parishad, or from a Panchayat Samiti to Zila Parishad or from a Zila Parishad to a Panchayat Samiti, and may also stay the operation of, or cancel, any order of transfer made under sub section (8) or the rules made thereunder:"

By virtue of Sub Section 8A of Section 89 of the Act of 1994, the State Government has been vested with power to transfer any member of the service or Panchayat Samiti to any other Panchayat Samiti or Zila Parishad or within the same district or outside it. This provision of law further transpires that the Government can also stay the operation of, or cancel, any order of/ transfer/ which means order of appointment by transfer.

There is glaring anomaly in the Rules. When sub section 8 is read with sub section 8A appointment by promotion and appointment by transfer which are

recognized mode of appointment to service, in the Rules, no power has been specifically and expressly vested with the appointing authority to transfer an employee in terms of section 89. Sub Section 8A only deals with the transfers. There is no substance in the plea of the leaned counsel for the petitioners that Section 89(8)(ii) deals with transfers. Sub section 8 contains opening word "Appointment by--". Two separate modes of appointment have been suggested by means of sub section 8(i) and Sub section 8(ii). It does not deal with simplicitor transfer. It deals with appointment by transfer after consultation with the Pradhans or the Pramukhs, as the case may, of the Panchayat Simitis or the Zila Parishads. However, Sub Section 8A which opens with the words "Notwithstanding anything contained in sub-section(8).....".

Thus, the State Government has power to transfer an employee from Simiti to another Panchayat Simiti from Zila Parishad to Panchayat Simiti and by vice versa. No power to any authority of the State has been vested for transferring by an employee under Sub Section 89(8)(ii). The impugned orders have been issued by the Government

and the Government has absolute power to make such transfers in exercise of power contained in section 89(8A).

The judgment relied upon by both the sides has been reported in 2003 (7) SCC 403 (**State of Rajasthan and others vs Anand Prakash Solanki)** deals with the transfer from one district forum to another district forum. Similar proposition of law has been decided by the Apex court observing as under:

> "It is true that there is no cadre as such of the Presidents and the members of the District for a contemplated by the Act and this the principal consideration which has prevailed with the High Court for holding that the President and members of District for a are not liable to be transferred inasmuch as there is no single cadre of such persons in the State. We cannot subscribe to that view. The existence of one cadre is not essential and is not the *sine qua non* to make available the power of transfer. As District for a, more than one, are constituted within the State, there is nothing wrong in the President or members of one District Forum being appointed by transfer to another District Forum, subject to the requirement of sub section (1-A) of Section 10 being satisfied. Such appointment by transfer shall be made by the State Government but only on the recommendation of the Committee consisting of the President of the State Commission and tow secretaries i.e the Committee composed as per sub section

> (1-A) of Section 10. Such appointment by transfer cannot be a frequent or routine feature. The power is there but is meant to be exercised sparingly and only in public interest or in such exigencies of administration as would satisfy the purpose of constituting the District Forum. The broader concept of "transfer" is a change of the place of employment within an organization. Transfer is an incidence of public service and the power to transfer is available to be exercised by the employer unless an express bar or restraint on the exercise of such power can be spelt out. The power, like all other administrative powers has to be exercised bona fide."

However, it was a case of appointment by transfer and not simplicitor transfer whereas the case in hand is simplicitor of transfer, it involved rights of the employee such as seniority and dislocation. However, the circular is not having binding force and the petitioners cannot claim as a matter of right to remain posted within the District. In case title **State of U.P and Others vs. Gobardhanlal & D.B.Singh vs. D.K. Shukla and Others** reported in **(2004) 11 SCC 402,** the Supreme Court while allowing and maintaining the transfer order observed in paragraph No. 7 as under:

> "7.It is too late in the day for any

Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision."

This view has been reiterated in case title **Chief General Manager, (Telecom) N.E. Telecom Circle and another vs. Rajendra Ch. Bhattacharjee and others** reported in **(1995) 2 SCC 532,** the court in para 7 observed as under:

> "It is needless to emphasize that a government employee or any servant of a Public Undertaking has no legal right to insist for being posted at any particular place. It cannot be disputed that the respondent holds a transferable post and unless specifically provided in his service conditions, he has no choice in the matter of posting. Since the respondent has no legal or statutory right to claim his posting at Agartala, therefore, there was no justification for the Tribunal to set aside the respondent's transfer to Dimapur."

The plea of learned counsel for the petitioners is that the petitioners are facing hardship one way or the other because of their children studying, suffering from ailment or the parents are suffering. The learned counsel for the respondents has submitted that the Apex Court has pronounced time and again that the transfers are made taking into consideration the exigencies of service and the employees are aware since the time of joining of service that he/she may be transferred by the employer to a place

where it suits to the employer. No doubt, the employer has to see welfare of the employee but to the extent possible. If such an employee feels that he is unable to move he may well proceed on leave making out a case for grant of leave, or file a representation before the respondents to consider his grievance. The Supreme Court while dealing with similar case title **Gujrat Electricity Board & Anr. Vs Atmaram Sungomal Poshani** reported in **AIR 1989 SC 1433,** where the respondent Atma Ram Sungomal Poshani was appointed as Technical Assistant and thereafter promoted to the post of Deputy Engineer. While working as Deputy Engineer, he was transferred and relieved from duty. He made a representation to the higher officer for cancellation of his transfer order on the ground that his mother is of 70 years of age and ailing and this circumstance has caused inconvenience and hardships to him to join the post where he was transferred. His representation was rejected. He resorted to file a Civil Suit challenging the order of transfer. In the meantime his superior officer discharged him from service. He challenged the action of the authority and in turn came

before Apex Court. While dealing with such a situation, the Apex Court observed as under:

> "Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No Government servant or employee of Public Undertaking has legal tight for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the Public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance to the transfer order, he would expose himself to disciplinary action under the relevant Rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other."

This view has been reiterated in case title **State of M.P. And another vs S.S. Kaurav and others** reported in **(1995) 3 SCC 270,** the court in para 6 observed as under:

> ".....The Court cannot go into that question of relative hardship. **It would be for the administration to consider the facts of a given case and mitigate the real hardship in the interest of good and efficient administration."**

So far as plea that the transfer has been made to a far away place, it cannot be interfered with for the reason that the employee has to work in the State wherever he/she is posted. The plea of posting at a distance from one place to another is immaterial. It does not involve any violation of service Rule.

So far as the plea of behaviour / complaint against the employee is concerned, it has been considered by the Supreme Court in case title **Union of India and others vs Janardhan Debanath and another** reported in **(2004) 4 SCC 245.** The Apex Court dealing with allegations, in paragraphs No.11,12,13 and 14 observed as under:

“11.....In a case where transfer is on account of inefficiency or mis-behaviour, the same can be made to a post carrying less pay than the pay of the post on which he holds a lien. Similar is the position where a transfer is made on a written request. Where the transfer is otherwise than for inefficiency or mis-behaviour or on a written request made by the transferred employee, the protection of pay is ensured. The High Court seems to have completely mis-construed the rule as if there cannot be any transfer in terms of FR 15 on account of inefficiency or mis-behaviour. The view is clearly contrary to the pronounced intention of FR 15.

12.That brings us to the other question as to whether the use of the expression 'undesirable' warranted an enquiry before the transfer. Strong reliance was placed by learned counsel for the respondents on a decision of this Court in Jagdish Mitter v. The Union of India (AIR 1964 SC 449, para 21, p.456) to contend that whenever there is a use of the word 'undesirable' it casts a stigma and it cannot be done without holding a regular enquiry. The submission is clearly without substance. The said case relates to use of the expression 'undesirable' in an order affecting the continuance in service by way of discharge. The decision has therefore no application to the facts of the present case. The manner, nature and extent of exercise to be undertaken by Courts/Tribunals in a case to adjudge whether it casts a stigma or constitutes one by way of punishment would also very much depend upon the consequences flowing from the order and as to whether it adversely affected any service

conditions - status, service prospects financially and same yardstick, norms or standards cannot be applied to all category of cases. Transfers unless they involve any such adverse impact or visits the persons concerned with any penal consequences, are not required to be subjected to same type of scrutiny, approach and assessment as in the case of dismissal, discharge, reversion or termination and utmost latitude should be left with the department concerned **to enforce discipline, decency and decorum in public service which are indisputably essential to maintain quality of public service and meet untoward administrative exigencies to ensure smooth functioning of the administration.**

13.Additionally, it was pointed out by learned counsel for the Union of India that as indicated in the special leave petition itself there was no question of any loss of seniority or promotional prospects. These are the aspects which can be gone into in an appropriate proceeding, if at all there is any adverse order in the matter of seniority or promotion. It was also submitted that transfer was within the same circle i.e. the North Eastern Circle and, therefore, the question of any seniority getting affected by the transfer prima facie does not arise.

14.The allegations made against the respondents are of serious nature, and the conduct attributed is certainly unbecoming. **Whether there was any mis-behaviour is a question which can be gone into in a departmental proceeding. For the purposes of**

> **effecting a transfer, the question of holding an enquiry to find out whether there was mis-behaviour or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by learned counsel for the respondents, of holding an elaborate enquiry is to be insisted upon the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated.** The question whether respondents could be transferred to a different division is a matter for the employer to consider depending upon the administrative necessities and the extent of solution for the problems faced by the administration. It is not for this Court to direct one way or the other. The judgment of the High Court is clearly indefensible and is set aside."

This view has been reiterated by the Supreme Court in case title **S.C. Saxena vs Union of India and Others** reported in **2006 (9) SCC 583** observing as under:

> "... It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.

> Apart therefrom, if the appellant really had some genuine difficulty in reporting from work at Tezpur, he could have reported from duty at Amritsar where he was so posted. We too decline to believe the story of his remaining sick. Assuming there was some sickness, we are not satisfied that it prevented him from joining duty either at Tezpur or at Amritsar. The medical certificate issued by Dr. Ram Manohar Lohia Hospital proves this point. In the Circumstances, we too are of the opinion that the appellant was guilty of the misconduct unauthorizedly remaining absent from duty."

In case title **Public Services Tribunal Bar Association vs State of U.P. And another** reported in **(2003) 4 SCC 104,** the court observed as under:

> **"**Transfer is an incident of service and is made in administrative exigencies. Normally, it is not to be interfered with by the courts. The Supreme Court consistently has been taking a views that orders of transfer should not be interfered with except in rare cases where the transfer has been made in a vindictive manner."

In case title **Kendriya Vidyalaya Sangathan vs Damodar Prasad Pandey and others** reported in **(2004) 12 SCC 299,** the court held as under:

> "Transfer is an incidence of service. Who should be transferred and posted where, is a matter for the administrative authority to

> decide. Unless the order of transfer is shown to be clearly arbitrary or is vitiated by mala fides or is made in violation of any operative guidelines or rules governing the transfer the courts should not ordinarily interfere with it"

In case title **Jagdish Chandra Ojha vs The State of Rajasthan** reported in **1998(3) WLC(Raj.) 380,** the court in para 23 observed as under:

> ".....However, it is clarified that inspite of the fact that administrative exigencies are supreme and the competent authority has to decide a case bearing in mind the administrative exigency,... .."

Some of the petitioners have challenged that they belong to the service of one Municipal Board and cannot be transferred to the service of another Board which is a different service. Such a transfer order can be made protecting their seniority and other service conditions. Petitioners have not challenged Section 310-A of the Rajasthan Municipalities Act, 1959, which empowers the State Government to transfer a member of Subordinate Ministerial or Class IV Service from one Municipal Board to another. This point has been dealt with in preceding

paragraph in case title **State of Rajasthan and others vs Anand Prakash Solanki(supra).**

So far as the plea in some of the cases that a person appointed by way of compassionate appointment as Class IVth employee cannot be transferred outside the district is concerned, they have relied upon the instructions issued by the Government, which prescribes that at the time of appointment such employee should be posted in district and ordinarily shall not be posted outside the district. It does not mean that for all times to come such employee cannot be posted outside the district. If this plea is accepted, it will make two differential classifications for one set of Class-IVth employees which is not permissible. Compassionate appointment is also a source of recruitment and appointment. On joining the post, such person becomes a member of the service and his transfer has to be governed under the Service Rules. Keeping in view the facts and circumstances of the each case and the judgments noticed in the course of judgment, the following orders in the writ petitions are passed as under:

(1) Malice/ misbehavior and vengeance pleaded for

transfer orders is a matter of fact and cannot be looked into and decided on the basis of affidavits of the parties by the court in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India as pronounced by the Supreme Court in case title **State of U.P and another vs Siya Ram and another** reported in **(2004) 7 SCC 405,** the court observed in para 5 as under:

> "5.The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, 1950 (in short the 'Constitution') had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. **No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were**

> **the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan and Anr. (2001 (8) SCC 574).”**

This view has been reiterated by the Supreme Court in case title **Abni Kanta Ray vs State of Orissa and others** reported in **1995 Supp.(4) SCC 169,** the court held as under:

> “It is settled law that a transfer which is an incident of service is not to be interfered with by the courts unless it is shown to be clearly arbitrary or vitiate by mala fides or infraction of any professed norm or principle governing the transfer. The Transfer of the Additional Registrar of the Cuttack Bench of the Orissa Administrative Tribunal being on facts in public interest, there was no permissible ground available to the Tribunal for quashing the same. The Division Bench of the Tribunal which quashed the said transfer on the ground of malice of the Chairman of the Tribunal did so against the material on record and the facts beyond controversy which borders of judicial impropriety.”

The writ petitions filed alleging malafide against the respondents are dismissed for the reasons noticed in this

judgment.

(2) The writ petitions filed pleading that there is hardship of on account of ailment of the member of the family, children studying in school or posted at a long distance are dismissed.

(3) The petitions wherein it is asserted that the petitioners should be posted as per the Government Policy are dismissed as the policy has no binding statutory force. The remedy for the petitioners lies before the superior authorities by filing a representation or before the authority which has passed the impugned order inviting attention to consider the representation sympathetically.

(4) Where there is no post to join for the petitioner despite that transfer order has been issued by the respondents or where the transfer order has been issued and the employee occupying the said post has not been transferred, the respondents are directed to look immediately into it and pass appropriate orders within two weeks.

(5) In cases where the petitioners have been shown transferred in their transfer orders on their request which

is factually incorrect. The respondents shall look into their record and if the plea of the petitioners is found correct, they will withdraw impugned order within two weeks.

(6) The transfer orders challenged on the ground that they are violative of Sub Section 8(ii) of Section 89 of Panchayat Raj Act, 1994 are dismissed for the reasons noticed in the course of this judgment.

(7) Where the transfer order has been withdrawn because of its challenge before the Court/ Tribunal and fresh order of transfer has been passed despite the lis pending before the Court/Tribunal, the respondents shall withdraw the subsequent order and contest the cause in the court of law.

(8) In some of the cases, it is established that the petitioners have been transferred three to five times in two years and two or three times in two to three months, such transfer orders are the cases of frequent transfers. The petitioners shall file representation to that effect to the competent authority within a period of one week and the competent authority shall dispose of it within two weeks thereafter. In case they do not file representation within

stipulated period, it shall be presumed that they are not serious to seek the transfer orders examined/modified by the respondents.

(9) Where because of the transfer order, two persons have been permitted to join against one post, the respondents shall immediately pass appropriate order adjusting the employee who is without post. While making adjustment, the respondents will take into consideration that he/she may be posted nearby, if convenient.

(10) The transfer order issued of the Health Officer by the Chief Medical and Health Officer and the transfer orders issued by the Block Education Officer of the Teachers have been found issued without jurisdiction, those are quashed and writ petitions are allowed.

(11) Where the petitioner has been posted outside the administrative control of the Headmaster because of her complaint against the Headmaster, has again been posted under the control of same Headmaster, the respondents shall consider it and pass appropriate orders within two weeks.

(12) Where the respondents passed two orders of

transfer on 15.7.2006. One of the order has been stayed by the Tribunal and the respondents by virtue of second order relieved the petitioner, is not justified. The respondents should not have issued two orders on the same day. The second order by virtue of which petitioner has been relieved is set aside. The respondent will contest the cause of the petitioner before the Tribunal, if pending. The Tribunal in that event shall dispose of all such appeals within three months positively

(13) Where the petitioner has submitted an application to forego his promotion from the post of Vice Principal to Principal, despite that he has been relieved to join on promotional post, the respondents are directed to consider his application sympathetically within two weeks.

(14) So far as the transfer orders issued during the ban period are concerned, the writ petitions are dismissed relying upon the judgment delivered in case title **Mrs.Shilpi Bose and others vs State of Bihar and others** reported in **AIR 1991 SC 532 (supra).**

(15) Where the writ petitions have been filed on the

ground that the petitioners are to retire within two years and they should not have been transferred relying upon the Division Bench judgment of this Court, perusal whereof reveals that there is no Rule or Government Instructions to that effect issued by the Government. Such a proposition was also before the Apex Court in the case title **State of Punjab and Others vs. Joginder Singh Dhatt (supra)**, the Supreme Court dealt with similar direction of the High Court of State of Punjab. The Supreme Court allowed the appeal and set aside the order of the High Court upholding the order of transfer. This judgment is applicable to the cases of the petitioners per incuriam. These petitions are dismissed.

16. The writ petitions filed by Class-IVth employees on the ground that they have been transferred in contravention of Circular issued by the Government that they can not be transferred outside the district are dismissed as Circular has no binding force of law.

17.The writ petition filed by the petitioners that he has been transferred at the instance of MLA whose letter has

been annexed with the writ petition shall move representation to the respondents for redressal of his grievance, the respondents will pass appropriate orders.

18.In writ petitions where the relieving order has been challenged and the original order has not been challenged, those petitions are not maintainable unless the original order of transfer is challenged, consequential order can not be set aside.

19. Writ Petition filed by the petitioners that they have been appointed on compassionate ground and they could not have been transferred out side the district because the Circular issued by the Government are dismissed as the Circular is not enforceable in the court of law.

20.All other writ petitions being devoid of merits are dismissed.

(R.C.Gandhi),J

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